

Thomas-Jensen

Affirmation

Exhibit # 97

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

STATE OF NEW YORK; et al.,

Plaintiffs,

v.

C.A. No. 1:25-cv-00039-JJM-PAS

DONALD TRUMP, in his official capacity as
President of the United States; et al.,

Defendants.

DECLARATION OF MATTHEW DAVIS

I, Matthew Davis, declare as follows:

1. I am the Policy and External Affairs Manager at the Oregon Department of Environmental Quality (“DEQ”). I have been in this position for approximately two years, and with the agency in varied capacities for eight years. Prior to serving at DEQ, I served as a policy specialist for eight years in local government. I make this declaration based on personal knowledge and experience and based on records maintained by DEQ in the ordinary course of its business as well as information I gathered from agency employees that I regularly interact with in my work at DEQ. I would testify to the following facts if called as a witness.

2. DEQ is one of the Oregon agencies charged with protecting and enhancing the state’s natural resources. DEQ employs about 800 people across Oregon who implement state and federal laws that protect the state’s air, water, and land, including the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Clean Water Act and the Clean Air Act. DEQ also implements a variety of state level

programming, such as Oregon's Climate Protection Program that is designed to meet Oregon's greenhouse gas reduction goals.

3. As the Policy and External Affairs Manager for DEQ, I am knowledgeable about and responsible for overseeing the requests for and receipt of federal funding that DEQ uses and relies upon to conduct its operations. Specifically, I coordinate and oversee the administrative processes required by a state agency in Oregon to apply for, and take receipt of federal funds.

4. DEQ receives federal funding for many different programs from the Environmental Protection Agency ("EPA"). It receives and relies upon a variety of federal funds to implement environmental programs for which authority has been delegated to Oregon DEQ from the US EPA. Approximately 13% of the agency's operating budget relies on federal funds, nearly all of which are authorized under reimbursement-based grant agreements. DEQ holds grants appropriated under a variety of authorizing statutes, including the current federal budget continuing resolution, the Bipartisan Infrastructure Law and the Inflation Reduction Act. Key agreements include: (A) The Performance Partnership Grant, an umbrella agreement that encompasses: Clean Air Act, Section 105; Clean Water Act, Section 319 (partial grant); Clean Water Act, Section 106; Resource Conservation and Recovery Act, Section 3011; Safe Drinking Water Act – Underground Injection Control, Section 1443(b)(1); and the Multipurpose Grant. The current 2024-2026 agreement is valued at \$18.6 Million. (B) The Climate Pollution Reduction Planning and Implementation Grants represent the most significant current agreement DEQ holds with the EPA. Totaling over \$200 Million, the agreement funds 7.0 FTE at DEQ, and millions of dollars in subawards to be passed through to existing climate programs across multiple state agencies. This includes funding for electric vehicle purchase rebates, grants to support methane reduction activities at landfills, funds for electric vehicle charging

infrastructure, and energy efficiency upgrades in residential properties. DEQ holds a number of other, smaller, competitive grant agreements authorized under either the Bipartisan Infrastructure Law or Inflation Reduction Act.

5. Since January 28, 2025, DEQ has been unable to draw federal funds on some of the existing grants that it has been awarded. For example, last week, DEQ could not request to draw down funds on its grants because its grants were suspended in the grant management platform. DEQ sought access last week to draw down a total of \$642,495.21. That amount included reimbursements for January payroll, weekly vouchers processed, and a disbursement for the Clean Water State Revolving Fund. DEQ was seeking reimbursement from EPA from grant funds that it had previously been awarded for these amounts. The standard protocol for DEQ's grants with EPA is for DEQ to submit a draw request through the ASAP system and for EPA to disburse the funds within one day. However, the grants in question had been removed from the "initiate payment requests" screen in ASAP preventing DEQ from making a draw against those grants. As of February 4, 2025, six of the seven grants against which DEQ tried to draw funds remain inaccessible.

6. On January 28th, DEQ received an email from EPA stating that the agency had paused all funding actions related to the Inflation Reduction Act and the Infrastructure Investment and Jobs Act. That same day, OMB Memo M-25-13 was received suspending all federal funding obligated to DEQ. On that day, DEQ's federal grants were all, in fact, suspended, which meant that DEQ could not access the "initiate payments requests" screen to draw down on grants. On January 29, 2025, many of DEQ's previously suspended grants were made available, and DEQ was able to draw funds from them. However, thirteen grants were still in a suspended state. DEQ staff began to research the information. A notification message in the ASAP system

indicated a change had been made by the federal agency to the account and pointed to the “Account Profile Inquiry” report for more information. The report indicated that the account status was “suspended” for these grants.

7. EPA made four of the previously suspended grants accessible on the “initiate payments request screen” on February 3, 2025, and it made an additional three previously suspended grants accessible on February 4, 2025. In total, as of the date I execute this declaration, DEQ does not have access to draw from five grants that have been awarded to DEQ and under which work has been performed.

8. When DEQ first learned about the suspension, DEQ staff sent an email to the ASAP help desk requesting additional information. DEQ staff was instructed to contact the funding agency directly. An email sent to contacts from EPA went unanswered.

9. One of DEQ’s EPA grants under which a federal payment was unavailable is grant ID number of 44-02J54901-1. The grant title is Columbia River Basin Restoration Funding Assistance Program – Toxic Reduction Lead. The original grant amount awarded under this grant is \$3,204,240 awarded on November 21, 2023 to expand education and outreach, provide support to urban designated management agencies and agricultural operations. The grant assistance amendment awarded an additional \$1.4M on December 20, 2024. The grant funds personnel, benefits, travel, supplies, and contractors. DEQ attempted to submit a drawdown request on January 30, 2025, for \$27,912.61 for work previously completed under the grant. The funds requested were expected to be drawn on January 30, 2025, but since the grant was not available to draw from, DEQ could not seek reimbursement for these and additional costs to date. On February 4, 2025, EPA made this grant available again on ASAP, and DEQ submitted

its funding draw request for \$28,348.96 (which includes additional amounts for rent). DEQ has not yet been paid, but expects to be paid for this amount by the close of business on February 6.

10. EPA grant ID number of 4C-02J76801-0, titled ODEQ CWSRF BIL Supplemental FFY23 was originally suspended on January 28, 2025, however, this grant was changed to an active status along with three other grants related to the SRF program on February 3, 2025, and a grant draw for \$496,368 was made the same day.

11. Another of DEQ's EPA grants is grant ID number 4W-02J23401-1. The grant title is Cleanup Infrastructure and Investment Jobs Act Grant for Oregon DEQ. The original amount awarded under this grant is \$1,090,294 on March 13, 2023, to enhance the capacity of DEQ's Brownsfield response program to meet the Section 128(a) elements. The grant assistance amendment awarded an additional \$890,294 on December 12, 2023. The grant funds personnel, benefits, and contracts. DEQ attempted to submit a drawdown request on January 30, 2025, for \$51,137.70 for work previously completed under the grant. The funds requested were expected to be drawn on January 30, 2025, but since the grant was not available to draw from, DEQ was not reimbursed for these and additional costs as expected. On February 5, 2025, EPA made this grant available again on ASAP. DEQ made an attempt to draw is \$68,530.94 late in the day on February 5, 2025 and is awaiting payment.

12. One of DEQ's EPA grants with a delinquent grant disbursement is grant ID number 5A-02J31101-1. The grant title is ODEQ IRA CAA 103-Grant. The total amount awarded under this grant is \$363,386. The grant was awarded on January 7, 2025, for the purchase of laboratory analytical equipment, ambient air monitoring equipment, and for conducting a home heating and residential open burning survey for the 2023-2024 winter heating season. The grant funds personnel, benefits, equipment, and supplies. DEQ attempted to submit a

drawdown request on January 30, 2025, for \$5,347.81 for work previously completed under the grant. The funds requested were expected to be drawn on January 30, 2025, but since the grant was not available to draw from, DEQ has not been reimbursed for these costs to date.

13. Another of DEQ's EPA grants with a delinquent grant disbursement is grant ID number 5D-02J38701-0. The grant title is ODEQ Climate Pollution Reduction Planning Grant. The total amount awarded under this grant is \$3M. The grant was awarded on July 27, 2023, for the development of a comprehensive economy-wide climate mitigation plan or to update an existing plan in collaboration with other entities to reduce greenhouse gases and harmful air pollutants and to conduct meaningful engagement with low-income and disadvantaged communities. The grant funds personnel, benefits, travel, supplies, and contracts. DEQ attempted to submit a drawdown request on January 30, 2025, for \$9,128.93 for work previously completed under the grant. The funds requested were expected to be drawn on January 30, 2025, but since the grant was not available to draw from, DEQ has not been reimbursed for these and additional costs to date. The total unreimbursed amount is \$9,228.93.

14. The largest of DEQ's EPA grants with a delinquent grant disbursement is grant ID number 5E-84101101-0. The grant title is ODEQ Climate Pollution Reduction Implementation Grant. The total amount awarded under this grant is \$197,181,796. The grant was awarded on October 17, 2024, to implement greenhouse gas reduction programs, policies, projects, and measures identified in a Priority Climate Action Plan developed under a Climate Pollution Reduction Grants planning grant. The grant funds personnel, benefits, supplies, and contracts. DEQ attempted to submit a drawdown request on January 30, 2025, for \$37,789.77 for work previously completed under the grant. The funds requested were expected to be drawn

on January 30, 2025, but since the grant was not available to draw from, DEQ has not been reimbursed for these and additional costs to date. The total unreimbursed amount is \$37,825.97.

15. Another of DEQ's EPA grants with a delinquent grant disbursement is grant ID number 5Q-02J70001-0. The grant title is ODEQ IRA Direct Monitoring. The total amount awarded under this grant is \$1,501,270. The grant was awarded on August 27, 2024, for the expansion and enhancement of DEQ's air monitoring activities. The grant funds personnel, benefits, equipment, supplies, and contracts. DEQ attempted to submit a drawdown request on January 30, 2025, for \$14,810.39 for work previously completed under the grant. The funds requested were expected to be drawn on January 30, 2025, but since the grant was not available to draw from, DEQ has not been reimbursed for these costs to date.

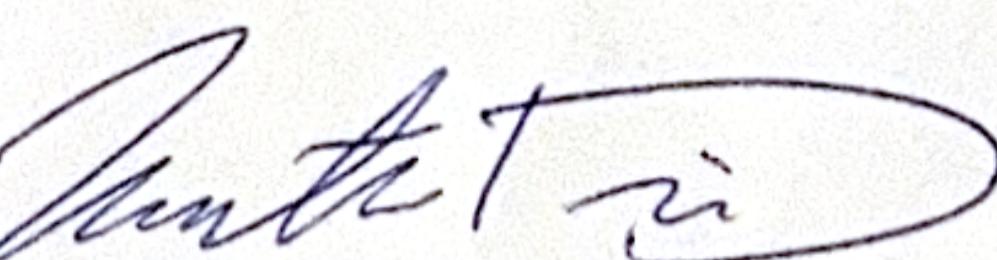
16. These grants are critical to DEQ's efforts to implement the activities the agency has committed to under state policies. This includes conducting air quality monitoring activities, preparing the State's Comprehensive Climate Action Plan, reimbursing public and private entities for the purchase of zero emissions vehicles, reimbursing multiple state agencies and the Energy Trust of Oregon for their activities and expenditures associated with implementing the state's Priority Climate Action Program, and activities associated with evaluating toxics in the Columbia River Basin. DEQ has hired staff and allocated state funding for the projects funded with these federal grants. The agency's budget relies on the receipt of these promised federal funds. If these funds are not paid as promised by EPA, DEQ will be forced to pause the implementation of all work detailed in much of this declaration, including work conducted by staff. This will also have downstream impacts to sub-grantees relying on these federal funds for their deliverables.

17. DEQ is scheduled to continue the work on the programs the federal government is funding with these grants. DEQ expects to expend the grant funds on a similar schedule for the next several months. It is unclear at this point if EPA will resume funding as it has promised. This uncertainty has caused a significant amount of confusion and concern at DEQ about whether it can continue the programs that the federal government supports. Due to this lack of clarity, DEQ must decide imminently if it must pause activities, and either furlough grant-funded staff or redirect grant-funded staff to other work (and revenue sources) in order to cover payroll expenditures for the month of February. Those other areas of work and revenue sources are quite limited given the state of Oregon is in the final months of its biennial budget.

18. We continue to be concerned at DEQ that funding will not be restored and that DEQ will be forced to permanently stop work and furlough or redirect grant-funded personnel, despite the grant awards DEQ has received. DEQ is also concerned that other grant funding could be delayed as well. If funding is not restored under its grants, DEQ will lose the benefit of significant progress it has made resulting from investments the state has made to advance the agency's obligation to meet grant deliverables and to advance critical environmental protection activities.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 5, 2025, at Portland Oregon.



MATTHEW DAVIS